

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 09-CR-186

EARNEST ASHFORD, NITA ASHFORD,
ANDREAUS MCCOATS, LATWAN MCCRAY,
EARNEST LEE, JOVAN WILLIAMS,
JOY ASHFORD, FELICIA MCCOATS-SMITH,
THARTHUR JOHNSON, MICHAEL FLANDERS,
REGALE MORGAN, LARELLE HERBERT,
LARUE HERBERT, LARVIZO JOHNSON,
CLAYC STARKES, FADIS CHRISTOPHER MONTGOMERY,
TAMELIA JOHNSON, ANTWAN SMALL,
NICHOLAS MONTGOMERY, ANEISHA MORROW,
TRACY HINTON, CHRISTOPHER CHAFFEE,
JOSHUA GILBERT, CANDICE TOWNSEND,
EBONY TAYLOR, JOLANTA TERRY,
RITA BEASLEY and DEANDRE BEASON,

Defendants.

**ORDER TRANSFERRING CASE (EXCEPT WITH RESPECT TO DEFENDANT
DEANDRE BEASON) TO CHIEF UNITED STATES DISTRICT
JUDGE C.N. CLEVERT, JR. FOR TRIAL OR FURTHER PROCEEDINGS**

On August 4, 2009, a grand jury sitting in the Eastern District of Wisconsin returned an indictment against the above-named individuals (except for Deandre Beason (“Beason”)) charging them with a variety of crimes stemming from their alleged involvement in drug trafficking. Beason was not named as a defendant in the original indictment. However, on September 15, 2009, the grand jury returned a superseding indictment and in this indictment Beason was named as a defendant. In Count 16 of the superseding indictment Beason is charged with being a felon in possession of a firearm on or about August 13, 2009, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). On September 24, 2009, Beason was arraigned on the charge and entered a plea of not guilty.

On September 16, 2009, (and prior to Beason's arraignment) a scheduling conference was conducted in this previously-designated complex case. A second scheduling conference was conducted on November 16, 2009. At that time, the court issued a scheduling order setting forth a date for the filing of all pretrial motions. In accordance with that scheduling order, on February 8, 2010, Beason filed several motions. However, Beason was the *only* defendant to file any pretrial motions.¹ Beason filed a motion to suppress and a motion to sever his trial from that of his co-defendants.

On March 8, 2010, the government filed its responses to Beason's motion to suppress and his motion for severance. In its response to Beason's motion for severance, the government asserts that it does not oppose the motion for severance. Noting that it does not agree with Beason's assertion that he had not been inculcated in a common scheme to distribute cocaine, the government nevertheless asserts as follows:

[S]everance [of Beason's trial from that of his co-defendants] is appropriate. The present case has been designated complex, partly due to the nature of the evidence (court-authorized wiretap calls for four defendants) and the number of defendants. Unlike the defendants charged in Count One, and many of the remaining co-defendants charged with various offenses, the defendant is charged with a relatively discrete act that occurred on a single day in August, 2009. If the defendant's case proceeds to trial, the government anticipates it would introduce a minimal amount of this evidence against him.

(Gov't's Resp. at 2.)

Given that Beason is the only defendant to have filed any pretrial motions and given that the government does not oppose Beason's motion for severance of his trial from that of his co-defendants, I see no reason to delay the further processing of this complex case with respect to the remaining defendants. Consequently, Beason's motion to sever his trial from that of his co-defendants will be

¹ On December 2, 2009, defendant Tharthur Johnson ("Johnson") filed a *pro se* motion to dismiss Count One of the indictment as to him. But, Johnson has at all times been (and currently is) represented by counsel. Thus, this court will not entertain Johnson's *pro se* motion.

granted and this case (except with respect to Beason) will be transferred to Chief Judge Clevert for trial. I will retain the case with respect to Beason and issue my Recommendation on Beason's motion to suppress after it is fully briefed. Beason's Reply is currently scheduled to be filed no later than April 12, 2010.

NOW THEREFORE IT IS ORDERED that Beason's motion to sever his trial from that of his co-defendants be and hereby is **GRANTED**;

IT IS FURTHER ORDERED that this case (except with respect to Beason) be transferred to Chief Judge Clevert for trial or further proceedings.

SO ORDERED this 26th day of March 2010 at Milwaukee, Wisconsin.

BY THE COURT:

s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge